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10/734,883	12/15/2003	Jeffry A. Pegg	7344.12/P	1021
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Jack A. Kanz 502 So. Cottonwood Drive Richardson, TX 75080				EXAMINER
				HUNTER, ALVIN A
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/734,883

**MAILED**

Filing Date: December 15, 2003

**OCT 10 2007**

Appellant(s): PEGG, JEFFRY A.

**Group 3700**

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Jack A. Kanz  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 6/25/07 appealing from the Office action  
mailed 11/21/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6152832	Chandler, III	11-2000
1631504	Redman	06-1927

JP2003-117033

Kitabayashi

04-2003

## **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitabayashi (JP 2003-117033) in view of Chandler, III (USPN 6152832).

Regarding claim 1-3, Kitabyashi discloses a putter having a putterhead having a first mass and defining a top face, bottom face, and striking face which defines a horizontal axis and which extends in a substantially vertical plane from the bottom face to the top face and extends in a plane parallel to the horizontal axis and defining a preferred striking area centrally located on the striking face and a shaft having a second mass extending from the top face at an angle of 23.5 degrees supporting a grip on the end thereof remote from the putter head. Kitabayashi offsets the shaft's mounting position in order to allow left and right-handed players to utilize the club head. It is unclear if Kitabayashi discloses the vertical center of mass lying within the preferred length of the striking area, though Kitabayashi shows the clubhead being symmetric about a vertical axis, having a shaft connected and extending between the toe end and

midpoint, and having an angle of 23.5 degrees. Chandler, III discloses a putter having a putter head and a shaft with grip wherein the vertical center of mass lies within the preferred length of the striking area being that the center of mass of the putter head would naturally occur at the center of the putterhead and that the handle of the shaft is substantially aligned therewith (See Entire Document). One having ordinary skill in the art would have found it obvious to have the vertical center of mass within the preferred striking area, as taught by Chandler, III, in order to promote natural pendulum movement of the arm.

Regarding claim 4, Chandler, III shows a marker that identifies the midpoint of the putter head (See Figure 1).

Regarding claim 6, see the above regarding claim 1.

Regarding claim 7, Chandler, III also shows a marker on the top face in which the marker appears to be aligned with the center of mass of the putter (See Figures 1 and 2).

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitabayashi in view of Chandler, III further in view of Redman

Regarding claim 8, Kitabayashi in view of Chandler, III does not disclose the marker equally visible from both sides of the shaft. Redman shows the marker being equally visible on both side of the shaft. One having ordinary skill in the art would have found it obvious to have the marker of Kitabayashi in view of Chandler, III to be visible for both sides of the shaft, as taught by Redman, in order to align the golf ball with the club head.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redman in view of Chandler, III (USPN 6152832).

Regarding claim 1, Redman discloses a putter having a putterhead having a first mass and defining a top face, bottom face, and striking face which defines a horizontal axis and which extends in a substantially vertical plane from the bottom face to the top face and extends in a plane parallel to the horizontal axis and defining a preferred striking area centrally located on the striking face and a shaft having a second mass extending from the top face at an angle of 65 degrees (25 degrees from a vertical axis with respect to the horizontal axis) supporting a grip on the end thereof remote from the putter head. Redman offsets the shaft's mounting position in order to balance the weight of the club head. It is unclear if Redman discloses the vertical center of mass lying within the preferred length of the striking area. Chandler, III discloses a putter having a putter head and a shaft with grip wherein the vertical center of mass lies within the preferred length of the striking area being that the center of mass of the putter head would naturally occur at the center of the putterhead and that the handle of the shaft is substantially aligned therewith (See Entire Document). One having ordinary skill in the art would have found it obvious to have the vertical center of mass within the preferred striking area, as taught by Chandler, III, in order to reduce twisting and to promote natural pendulum movement of the arm.

#### **(10) Response to Argument**

Appellant argues the following issues with respect to the above rejections:

- A. Kitabayashi and Chandler are not combinable because:

1. Chandler, III does not disclose the shaft extending from the top face of the putter head at an angle of 8 to 25 degrees;
2. Kitabayashi requires a traditional putter style and Chandler, III requires a modified style.
3. Kitabayashi does not disclose the preferred striking area.

B. Kitabayashi and Chandler, III does not suggest or teach the modification because:

1. Kitabayashi does not teach reducing yaw,
2. Chandler, III does not use a traditional putting style,
3. The combination does not produce the results of the appellant's invention.
4. Combination is hindsight,
5. Chandler, III does not disclose the shaft angle.

Issue C. Kitabayashi, Chandler, III, and Redman cannot be combined because:

1. None of the references disclose the horizontal midpoint of the preferred striking area,
2. Chandler, III cannot be used to make reference to the horizontal midpoint,
3. Chandler, III does not disclose the center of mass,
4. Redman does not teach reducing yaws,
5. Redman's sighting element would be inoperable because of the shaft of Chandler, III used with Kitabayashi.

Issue D. There is no suggestion or teaching Kitabayashi, Chandler, III, and Redman.

Issue E. Redman and Chandler, III are not combinable because:

1. Redman discloses a traditional putting style versus Chandler, III,
2. Chandler does not disclose the angle of the appellant,
3. Redman does not suggest a center of gravity,
4. Chandler, III would destroy Redman due to the shaft alignment.

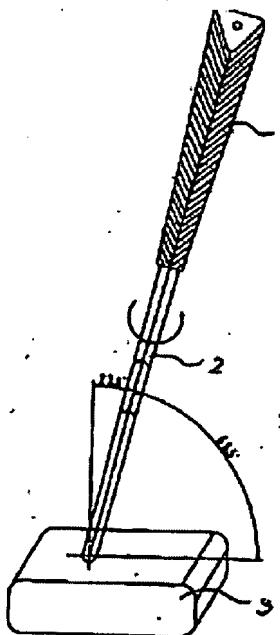
Issue F. There is not teaching or suggestion from Redman and Chandler, III because:

1. Redman does not address yaws, and
2. Chandler uses a different putting style.

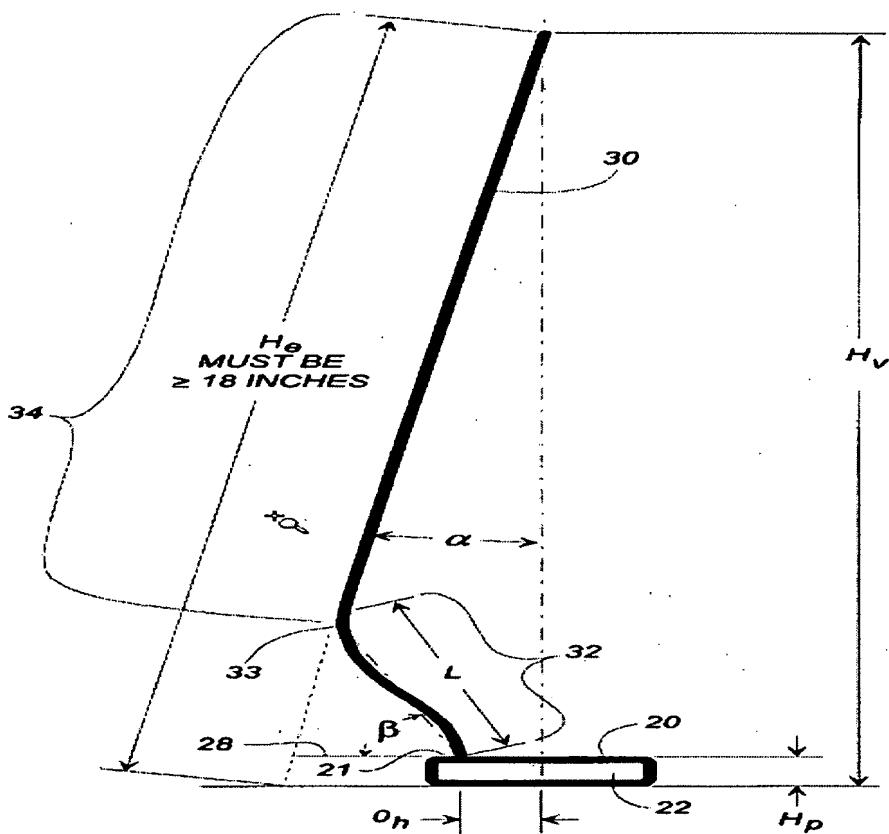
The examiner disagrees with all of the above.

Before discussing the prior art, it should be noted that according to MPEP 2111 claims are to be given their broadest reasonable interpretation. With the above in mind, attention is directed to the term "extending" used by the appellant in claims 1, 3, and 6. The term "extending" does not require the shaft to start at the top face of the putter head, only move from the direction of the top face of the putter head.

With the above in mind, Appellant argues that Kitabiyashi and Chandler, III cannot be combined or does not suggest the desirability of the claimed invention. Though not relied upon, "extend" does not require the angle to start at the top face of the putter head. Kitabayashi shows the following:



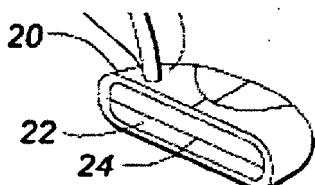
Kitabayashi also shows the shaft extending from the top face of the putter head at an angle of 23.5 degrees. Chandler, III shows the following:



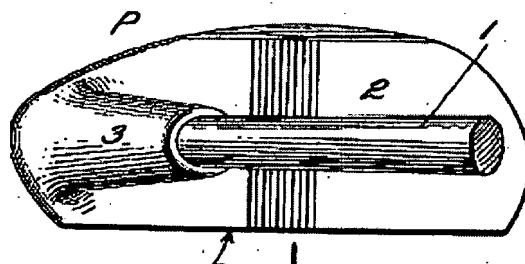
Chandler, III, shows the benefits of aligning the center of gravity within the preferred striking area by having the shaft angled. It is also noted that Chandler, III discloses that the center of gravity of the putter can be aligned with the geometric center of the face (See Column 12, lines 26 through 40). If the center of gravity is along the geometric center of the putter face, one would obviously conclude that the center of gravity of the putter is within the preferred striking area without explicitly reciting dimensions. Further, Chandler, III, discusses, in the background of the invention, the benefits of using a modified putting style over the traditional putting style. Also,

Kitabayash doesn't disclose the putter only limited to be used for a traditional putting style. It notes that the grip may be switched for desired circumstances (See Paragraph 0008). The appellant does not remotely claim that the invention must be used for traditional style putting. Appellant has already admitted that Chandler, III, is directed to reducing yaws. To establish obviousness, the prior art must suggest the desirability of the claimed invention. The structure of the prior art does not have to be physically combinable in order to establish obviousness (See MPEP 2145, particularly In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). Based on the above collectively Chandler, III, provides motivation for modifying Kitabayashi.

With respect to Redman, see the above with respect to Chandler, III and Kitabayashi. Also, Redman is not used to teach reduction of yaw. Further, it should be noted that the drawings also constitute prior art. Chandler, III shows the following:



Chandler, III, shows marking on the top face of the putter head but does not note the utility of the marking. Redman shows the following:



Redman disclose utility for a marker on the top face of the putter head as used for alignment wherein the shaft is presented at an angle extending from the toe. Redman does not have to disclose the center of gravity of the putter or explicitly recite the angle of the shaft. The addition of the marker would not render Kitabayashi or Chandler, III unsatisfactory because of their benefits; therefore, inoperability is not of an issue.

With respect to Redman in view of Chandler, III, see the above regarding Kitabayashi, Chandler, III, and Redman. As noted above, Chandler, III, shows the benefits of aligning the center of gravity within the preferred striking area by having the shaft angled. It is also noted that Chandler, III discloses that the center of gravity of the putter can be aligned with the geometric center of the face (See Column 12, lines 26 through 40). If the center of gravity is located along the geometric center of the putter face, one would obviously conclude that the center of gravity of the putter is within the preferred striking area without explicitly reciting dimensions. Further, Chandler, III, discusses, in the background of the invention, the benefits of using a modified putting style over the traditional putting style. Appellant has already admitted that Chandler, III, is directed to reducing yaws. To establish obviousness, the prior art must suggest the desirability of the claimed invention. The structure of the prior art does not have to be physically combinable in order to establish obviousness (See MPEP 2145, particularly In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). Based on the above collectively Chandler, III, provides motivation for modifying Redman. In addition to the above, Redman disclose utility for a marker on the top face of the putter head as

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used for alignment wherein the shaft is presented at an angle extending from the toe.

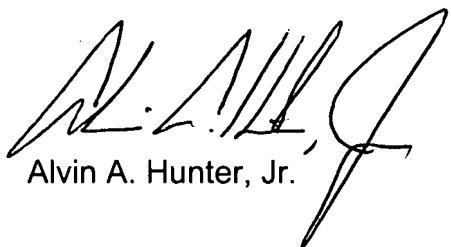
Redman does not have to disclose the center of gravity of the putter or explicitly recite the angle of the shaft. The addition of the marker would not render Chandler, III unsatisfactory because of Chandler, III benefits.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Alvin A. Hunter, Jr.

Conferees:



EUGENE KIM  
SUPERVISORY PATENT EXAMINER



Mark Jimenez

